

Corning Incorporated  
Legal Department  
Corning, New York 14831  
607.974.9000  
fax 607.974.6135

E-6  
04/09/91

US EPA RECORDS CENTER REGION 5



471366

August 9, 1991

**CORNING**

Via Federal Express

Beth A. Henning, Esq.  
Assistant Regional Counsel  
U.S. Environmental Protection Agency  
Region V  
230 South Dearborn Street  
Chicago, Illinois 60604

Re: Albion-Sheridan Township Landfill, Albion, Michigan (the "Site")

Dear Ms. Henning,

I am writing on behalf of Corning Incorporated ("Corning") in response to your letter of August 7, 1991 notifying us that the time for a good-faith offer to conduct the RI/FS at the Site will expire on August 12, 1991 and, in effect, denying the July 26, 1991 joint request of Cooper Industries ("Cooper") and Corning for a sixty-day extension of time to file an offer.

Corning continues to believe that a PRP-conducted RI/FS may be desirable and is disappointed that the Agency is unwilling to provide the time necessary to fully explore the possibility. Congress enacted the special-notice provisions of SARA to encourage settlements with PRPs. The idea was to provide time for PRPs to educate themselves about a site, form a group and initiate the necessary technical contacts. In this case, however, the special-notice procedure (and in particular the Agency's insistence on the suggested 60-day time-frame for the required good-faith offer), in combination with the Agency's inability to provide us with timely information about the Site, apparently has made settlement at this stage impossible.

In our letter of July 26th, Cooper and Corning gave a number of reasons in support of our request for an extension of time. Each of these reasons would have supported a decision to grant the request. Your August 7th letter not only does not explain why the request was denied, but fails to even acknowledge it was made. This aside, what is particularly disturbing is that the Agency has chosen to be inflexible about the initial sixty-day period even though it has been primarily the Agency's own inaction that has made the deadline unattainable.

As you know, Corning submitted prompt Freedom of Information Act requests concerning the Site. We sought information both general in nature and specific to

Henning, Beth  
August 9, 1991

Page 2

Corning, since our own internal investigation provided nothing to indicate we should be considered a generator under CERCLA. I reiterated these requests orally during a meeting with you in Chicago on July 2nd. You and the other EPA representatives at the meeting repeatedly assured me that you understood our need for the requested materials and that we would get a prompt response from the Agency. Nevertheless, and despite the fact that an inflexible sixty-day deadline was approaching, the Agency did not provide a response to Corning until today, August 9th. This means not only that we have been unable to evaluate the Agency's evidence (if any) implicating Corning, but also that we have been unable even to begin evaluating the involvement of other PRPs. Under these circumstances, the Agency's insistence on the August 12th deadline seems to indicate that it never had any intention of receiving, let alone considering, a good-faith offer to conduct the RI/FS.

Despite this, Corning still may be interested in the prospect of a PRP-coordinated RI/FS at the Site. Accordingly, we would like to request reconsideration of your decision to deny the joint Cooper/Corning request for an extension of time in which to submit an offer. Alternatively, should the Agency decide to deny this request for reconsideration and undertake the RI/FS itself, we hereby request that we be allowed to actively monitor the Agency-conducted RI/FS. We would like the opportunity to review and comment on all recommendations of contractors hired by the Agency, and would like full access to the Site and to the results of tests and analyses undertaken by the Agency. By making these requests and indicating our interest in the Site, we in no way intend to admit any liability for past or future costs at the Site.

I look forward to hearing from you concerning these requests. Please feel free to contact me if you have questions or concerns.

Very truly yours,



Richard D. Geiger  
Environmental Consultant

RDG:ms

cc: Mark Airola, Esq., (Cooper Industries)  
George Davis, Esq., (City of Albion)  
Mark Morton, Esq., (Mr. Robert Seiler)